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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,871	12/08/2003	Jeff Abel	22356.CON.CIP	4765

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EXAMINER

PARSLEY, DAVID J

ART UNIT PAPER NUMBER

3643

DATE MAILED: 10/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/730,871	Applicant(s) ABEL, JEFF	
	Examiner David J Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-11 and 13-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-11 and 13-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 8-2-04 and this action is final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 10-11, 13 and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,530,610 to Bremer.

Referring to claims 1 and 10, Bremer discloses a net for a sport fishing net device having a substantially hoop-shaped frame portion – at 2, the net comprising a bag of permeable net material – at 4 or 6, having a closed lower end and an open upper end – see figures 1-3, and a selectively releasable elongate fastener – at 9-11 having opposing portions, extending along the upper end of the bag, the opposing portions being configured to wrap around the hoop-shaped frame portion and attach to each other – see for example figures 1-3, to releasably secure the upper end of the bag to the hoop-shaped frame portion – see for example figures 1-3.

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Referring to claims 3 and 13, Bremer discloses the fastener is buttons – at 10-11.

Referring to claim 11, Bremer discloses the frame further comprises a handle – at 3, attached to the hoop-shaped portion – see figure 1.

Referring to claims 22-23, Bremer discloses a net for a sport fishing net device having a substantially hoop-shaped frame, the net comprising, a bag of permeable material – at 4, having a closed lower end and an open upper end – see for example figure 1, a flexible rim – at 9, having opposing portions, disposed along the upper end of the bag, and means – at 10-11, associated with the flexible rim, for selectively releasably fastening opposing portions of the flexible rim around the hoop-shaped frame, so as to cause the upper end of the bag to be attached to and releasably wrap around the frame – see for example figures 1-3.

Claims 1, 3, 10-11, 13 and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,169,331 to Baker.

Referring to claims 1 and 10, Baker discloses a net having a substantially hoop-shaped frame portion – at 12, the net comprising a bag of permeable net material – at 28, having a closed lower end and an open upper end – see figure 1, and a selectively releasable elongate fastener – at 16, having opposing portions – see for example figures 2,3,6, extending along the upper end of the bag, the opposing portions being configured to wrap around the hoop-shaped frame portion and attach to each other – see for example figures 2,3,6, to releasably secure the upper end of the bag to the hoop-shaped frame portion – see for example figures 1-3.

Referring to claims 2 and 12, Baker discloses the upper end portion of the bag comprises a flexible rim having opposing portions – see figures 1-6, configured to wrap around the hoop-

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shaped frame portion – see figures 1, 3 and 6, the selectively releasable elongate fastener – at 16, being disposed along the opposing portions of the rim – see for example figures 1-6.

Referring to claims 3 and 13, Baker discloses the elongate fastener is snaps – such as items 64 and 66.

Referring to claim 11, Baker discloses a handle – at 14, attached to the hoop-shaped frame – at 12 – see figure 1.

Referring to claims 22-23, Baker discloses a net for a sport fishing net device having a substantially hoop-shaped frame, the net comprising, a bag of permeable material – at 28, having a closed lower end and an open upper end – see for example figure 1, a flexible rim – at 16,26, having opposing portions, disposed along the upper end of the bag, and means – at 54-70, associated with the flexible rim, for selectively releasably fastening opposing portions of the flexible rim around the hoop-shaped frame, so as to cause the upper end of the bag to be attached to and releasably wrap around the frame – see for example figures 1-6.

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,012,351 to Vieaux. Vieaux discloses a net for a sport fishing net device having a substantially hoop-shaped frame portion having a perimeter, the net comprising, a bag – at 8, of permeable net material, having a closed lower end and an open upper end having a flexible rim – see figures 1-3, and a zipper – at 10-13, extending along the flexible rim, configured to releasably wrap the rim around the hoop-shaped portion so as to releasably secure the bag to the frame portion along a majority of the perimeter of the frame portion – see for example figures 1-3.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6-9, 14 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bremer or Baker as applied to claim 1 above, and further in view of FR Patent No. 2582190 to Chat.

Referring to claims 4 and 14, Bremer and Baker do not disclose the bag includes a length measuring scale, permanently disposed generally linearly on a surface of the net material. Chat does disclose a length measuring scale – see the drawing figure, permanently disposed on a surface of the net material – see the drawing figure. Therefore it would have been obvious to one of ordinary skill to take the device of Bremer or Baker and add the length measuring scale of Chat, so as to allow the user to measure the size of any object placed in the net.

Referring to claims 6 and 16, Bremer as modified by Chat and Baker as modified by Chat further disclose the length measuring scale includes length markings – see the drawing figure of Chat, and numeral designations associated with the length markings – see the drawing figure of Chat.

Referring to claims 7 and 17, Bremer as modified by Chat and Baker as modified by Chat further disclose the bag includes a bottom at a closed end and the length markings include a zero point near the bottom, with two coordinated scales sharing the zero point and extending in

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opposing directions therefrom, whereby a user may visually determine the length of a fish held in the bag by substantially aligning the fish with the length scale and adding the numeral designations which are approximately aligned with opposing ends of the fish – see the drawing figure of Chat.

Referring to claims 8 and 18, Bremer as modified by Chat and Baker as modified by Chat further disclose the length measuring scale includes length markings representing standard units of length – see for example the drawing figure of Chat.

Referring to claims 9 and 19, Bremer as modified by Chat and Baker as modified by Chat further disclose the length measuring scale includes length markings representing modified units of length to compensate for curvature of a fish held in the bag – see for example the drawing figure of Chat.

Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bremer as modified by Chat or Baker as modified by Chat as applied to claims 4 and 14 above, and further in view of U.S. Patent No. 2,765,535 to Weber. Bremer as modified by Chat and Baker as modified by Chat further disclose the measuring scale extends from a first position, thence substantially across the closed end, to a second position substantially opposite the first position – see for example the drawing figure of Chat. Bremer as modified by Chat or Baker as modified by Chat do not disclose the measuring scale is adjacent the upper end of the bag. Weber does disclose the length measuring scale is adjacent the upper end of the bag – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Bremer as modified by Chat and Baker as modified by Chat and add the measuring scale

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extending along the upper end of the bag of Weber, so as to allow for the device to accurately measure the object in the bag.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker. Baker discloses a net system comprising, a net frame – at 12, having a hoop-shaped portion – see figure 1, a plurality of bags – at 28, of permeable net material, each bag having a closed lower end and an open upper end – see figure 1, and including a selectively releasable elongate fastener – at 16, extending along the upper end of the bag, the elongate fastener having opposing portions that wrap around the hoop-shaped portion and connect to each other – see for example figures 2,3,6, the elongate fastener configured to releasably connect the bag to the hoop-shaped frame portion such that any of the plurality of bags may be connected to the hoop-shaped portion of the net frame – see figures 1-6. Baker does not disclose a plurality of net frames, however duplicating components for multiple effect does not render a claimed invention patentable over the prior art as seen in, *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) and MPEP section 2144.04.

Response to Arguments

4. Regarding claims 1, 3, 10-11, 13 and 22-23, the Bremer reference US 3530610 does disclose elongate fasteners – at 9-11, as seen in figures 1-3. Figures 1-3 show the fasteners – at 9-11, being elongate in that the length dimension is longer/elongated with respect to the width dimension and further as seen in figure 1 the fasteners – at 9-11, extend along the upper end of the bag – at 4 and the hoop-shaped frame – at 2 or 8.

Regarding claims 1, 3, 10-11, 13 and 22-23, the Baker reference discloses an elongate fastener – at 16,26, having opposing portions – at 48 and 50, extending along the upper end of

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the bag – at 28 as seen in figures 1 and 4-5, with the opposing portions being configured to wrap around the hoop-shaped frame – at 18 as seen in figures 2,3,6, and attach to each other – at 46, to releasably secure the upper end of the bag to the hoop-shaped frame portion – see for example figures 1-6 where the opposing portions are attached together – at 46 and releasably secure the bag – 28 to the hoop frame – at 18, via the ribs – at 64-70.

Regarding claim 21, the Vieaux reference US 3012351 discloses the zipper – at 13, extends along the upper end of bag – at 8 as seen in figures 1-2 where the zipper is located in the upper portion of the bag. Further, the zipper – at 13, releasably wraps the rim – at 9, around the hoop – at 5, as seen in figures 1-2 where as the zipper moves from the open position – figure 2 to the closed position figure 1, the rim – at 9, moves along the hoop – at 5, to wrap the rim about the entire perimeter of the hoop.

Regarding claims 4, 6-9, 14 and 16-19, the Chat reference FR 2582190 discloses a length scale on the a surface of net material as seen in the drawing figure where the length scale is attached to directly to the net material and therefore the length scale is disposed on the surface of the net.

Regarding claims 5 and 15, the combination of the Baker, Chat and Weber US 2765535 references disclose the measuring scale on the net material as seen in reference to claims 4 and 14 above and further disclose a measuring scale that extends from a first position adjacent the upper end of the bag across the closed end to a second position adjacent the upper end of the bag as seen in figures 1-2 of Weber. Figures 1-2 of Weber show the upper end and lower ends of the bag of net material being parallel in relation to the horizontal and therefore the length scale

extends across both as it extends along the horizontal proximate the upper and lower ends of the bag of net material.

Regarding claim 20, applicant relies upon the arguments to claims 1, 3, 10-11, 13 and 22-23. Therefore refer to the response to these arguments above in paragraph 4 of this office action.

Conclusion


5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David Parsley
Patent Examiner
Art Unit 3643


PETER M. POON
SUPERVISORY PATENT EXAMINER
9/7/04